

Staff Summary Report



Hearing Officer Hearing Date: 03/06/12

Agenda Item Number: 6

SUBJECT: This is a public hearing for a request by **HOOKAH BUFFET** located at 1501 East Apache Blvd, Suite 101, for one (1) Use Permit.

DOCUMENT NAME: HOr_hookahbuffet_030612 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by **APACHE OAK SHOPPING CENTER- HOOKAH BUFFET LLC** (PL120022) (Omar Mohmad Ali Al Rababah, applicant; Apache Oak Shopping Center, property owner) located at 1501 East Apache Boulevard, Suite Nos. 101, in the CSS, Commercial Shopping and Services District within the Transportation Overlay District Corridor for:

ZUP11007 Use Permit to allow a retail smoke shop (Hookah Lounge) offering tobacco and tobacco paraphernalia products.

PREPARED BY: Diana Kaminski, Senior Planner (480-858-2391)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

LEGAL REVIEW BY: N/A

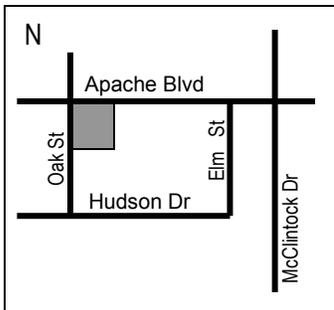
DEPARTMENT REVIEW BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

FISCAL NOTE: There is no fiscal impact to City funds.

RECOMMENDATION: **Staff – Approval, subject to conditions**

ADDITIONAL INFO:

The applicant is before the Hearing Officer to request approval of a Use Permit to allow a retail smoke shop (Hookah Lounge) offering tobacco and tobacco paraphernalia products. The site is located on the south side of Apache Boulevard in an existing commercial building built in 2007, with commercial to the east and west and residential to the south. There has been no public input to date regarding this request. Staff recommends approval of the request as submitted with conditions.



PAGES:

1. List of Attachments
2. Comments; Reasons for Approval
3. Conditions of Approval; History & Facts/Description
4. Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map
2. Aerial Photo
3. Letter of Intent
4. Site plan
5. Floor plan

COMMENTS:

Hookah Buffet is before the Hearing Officer to request approval of a Use Permit to allow a retail smoke shop (Hookah Lounge) offering tobacco and tobacco paraphernalia products. The proposed store will be located within the Apache Oak Shopping Center shopping center at 1501 East Apache Blvd #101, the southeast corner of Apache Blvd and Oak Street. .

The business will involve the sale of tobacco, flavored tobacco and similar products. According to the applicant, the intended hours of operation will be from 5:00 p.m. to 3:00 a.m., Monday through Sunday. There will be up to 3-5 employees on site during business hours, depending on demand. The business plan expects 10-15 customers in off-peak hours and up to 40 customers during peak business.

The City of Tempe Zoning and Development Code's tobacco retailer separation requirements, which took effect in June of 2007, prohibit a tobacco retailer from locating within 1,320 feet of a school. This proposal is not within 1,320 feet of a school, thus a tobacco retailer can be allowed subject to an approved Use Permit. The applicant will also be required to meet the City Adopted International Mechanical Code that requires a "smoking lounge" to meet outside air and ventilation requirements.

Use Permit

The proposed use requires a Use Permit, to sell tobacco within the Commercial Shopping and Service CSS zoning district. Section 6-308 E Approval criteria for Use Permit:

Evaluating the Use Permit, the proposal appears to pass the Use Permit test listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - The business is open from 5pm to 3am, not during heavy traffic times.
 - The business functions differently than general retail, in that customers stay to use the product on site, reducing the amount of turn-around traffic.
 - Due to proximity to transit options, the applicant anticipates light rail utilization by patrons which would reduce the amount of vehicular traffic.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - This is a retail use, similar to others within the area; there should be no nuisances. No alcohol or live entertainment are proposed with this request.
 - The applicant is aware of the City Adopted International Mechanical Code that requires a "smoking lounge" to meet outside air and ventilation requirements.
- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
 - The proposed development should not contribute to neighborhood deterioration or downgrade property values.
 - This Use Permit request is consistent with the General Plan 2030's Land Use Element. The requested Use Permit should not be detrimental to the surrounding area, but should further the General Plan Land Use Element Goals and Strategies.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding uses.
- e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public;
 - Provisions will be proposed to maintain adequate control of disruptive behavior. The applicant is required to meet with the Crime Prevention Unit of the Police Department to obtain a security plan.

Conclusion

Staff recommends that the Use Permit for Midnight Hookah be conditionally approved to allow the sale of tobacco products subject to conditions of approval.

REASON(S) FOR APPROVAL:

1. The use is in a commercial zoning district with similar businesses in the area.
2. There will be no apparent damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.
3. The use appears to be compatible with the building, site and adjacent properties.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. The Use Permit is valid for Hookah Buffet and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
4. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit
5. No outdoor speakers shall be allowed.
6. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan within 30 days of this approval. Contact William Gallauer at 480-350-8749 before April 6, 2012.
12. All business signs shall receive a Sign Permit. Contact sign staff at 480-350-8372.
13. Any intensification or expansion of use, including shall require a new Use Permit.
14. All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the Use Permit becoming effective.
15. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
16. The owner/management shall adhere to the City Adopted International Mechanical Code.
17. The gross sale of beverage and snack items may not exceed that of tobacco and hookah products for the hookah lounge tax license.
18. Any modifications to the exterior of the building require a Development Plan Review.
19. An occupancy inspection and clearance from the Tempe Fire Department shall be obtained prior to the Use Permit becoming effective.

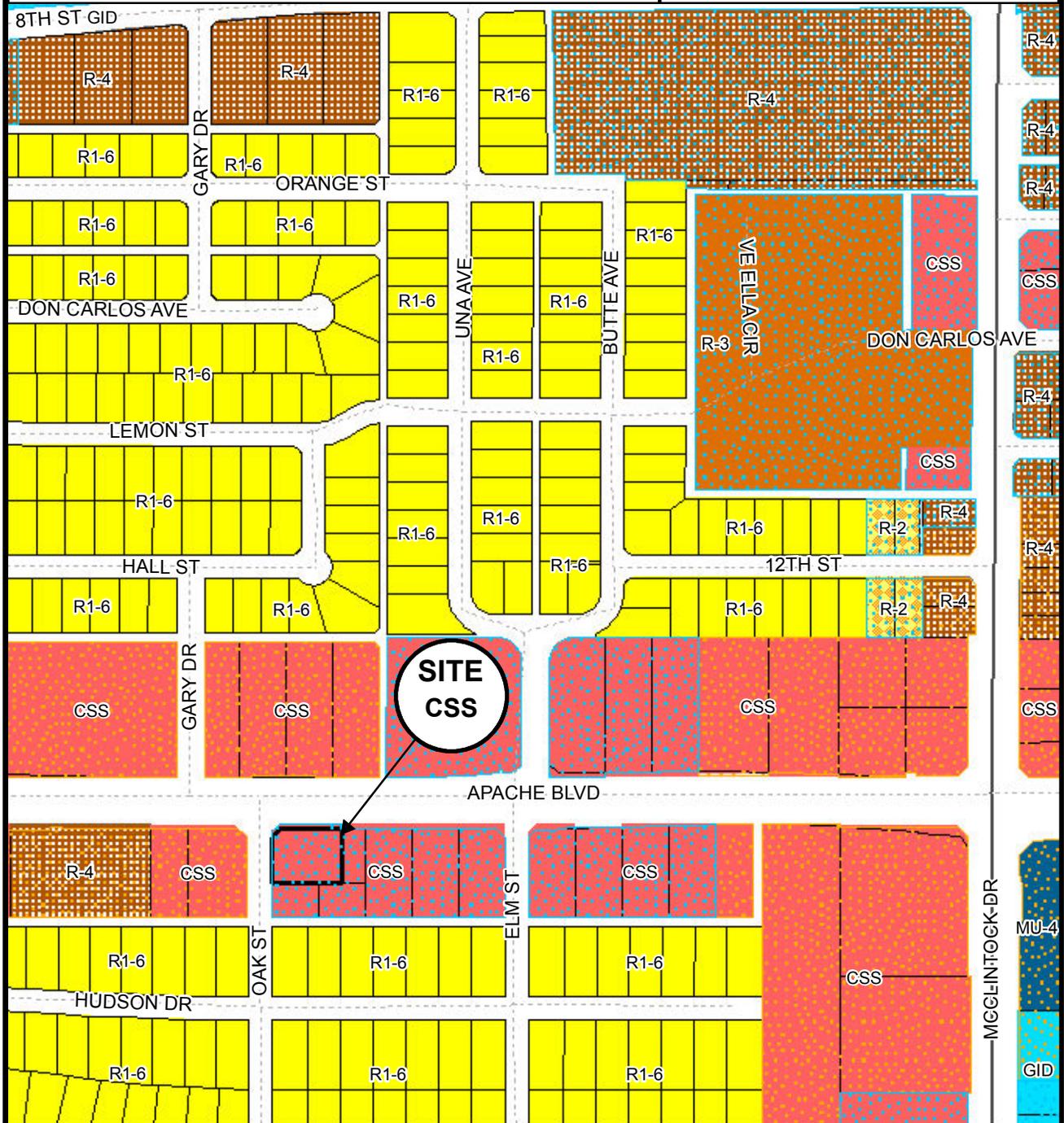
HISTORY & FACTS: None pertinent to this case.

DESCRIPTION: Owner – 1630 Apache LLC
Applicant – Omar Mohmad Ali Al Rababah
Zoning – CSS, Commercial Shopping and Services District within the Transportation Overlay District Corridor

ZONING AND DEVELOPMENT CODE REFERENCE: Part 3, Chapter 2, Section 3-202 – Permitted Uses in Commercial and Mixed-Use Districts
Part 3, Chapter 4, Section 3-423(C) – Use Separation Requirements (Tobacco Retailer)
Part 6, Chapter 3, Section 6-308 – Use Permit
Part 6, Chapter 3, Section 6-313 – Security Plan

APACHE OAK SHOPPING CTR HOOKAH BUFFET LLC

PL120022

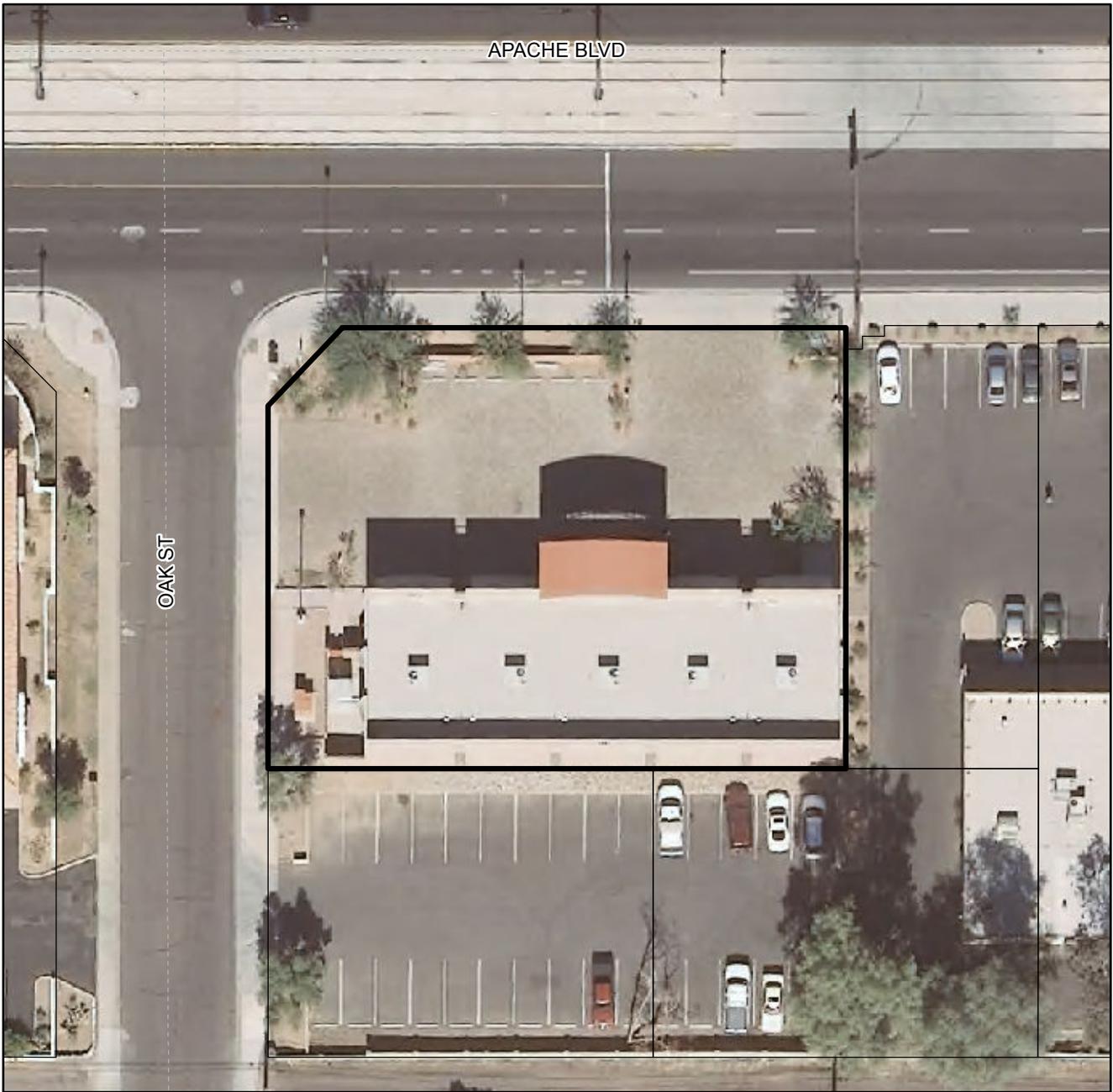


Transporation Overlay District

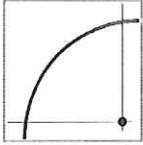
- Corridor
- Station



Location Map



APACHE OAK SHOPPING CENTER - HOOKAH BUFFET LLC (PL120022)



arcone associates

arcone associates, LLC

705 N. 1st Street
Phoenix, AZ 85004

Office: (602) 241 7871
Fax: (602) 241 7874

February 6, 2012

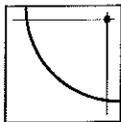
City of Tempe
Community Development
Planning Division
31 East 5th Street
Tempe, Arizona 85281

We are requesting a Use Permit to allow a hookah lounge at 1501 East Apache Boulevard, Suite 101-104 Tempe, Arizona. There will be an expected 40 customers at peak times and an average 10-15 customers on off hours. There will be 3-5 employees on site during business hours. Business hours will be 5pm to 3am Monday through Sunday. This site is directly across from the light rail line, where we feel a good percentage of our customer's mode of transportation will be. The hookah lounge will have a full new ventilation system design by a licensed mechanical engineer, and is expected to minimize any odor or smoke exceeding that of ambient conditions. The use of the hookahs will be limited indoor use only with admittance limited to adults. There is no expectation that this use will be in conflict with the goals, objectives and policies of the city. There are commercial uses on the east and west sides of the property and a parking lot behind the property making the use compatible with existing surrounding structures. I would be happy to answer any questions or hear any concerns that you may have regarding this letter. You may reach me at (602) 241-7871.

Sincerely,

Joshua Oehler
Executive Vice President

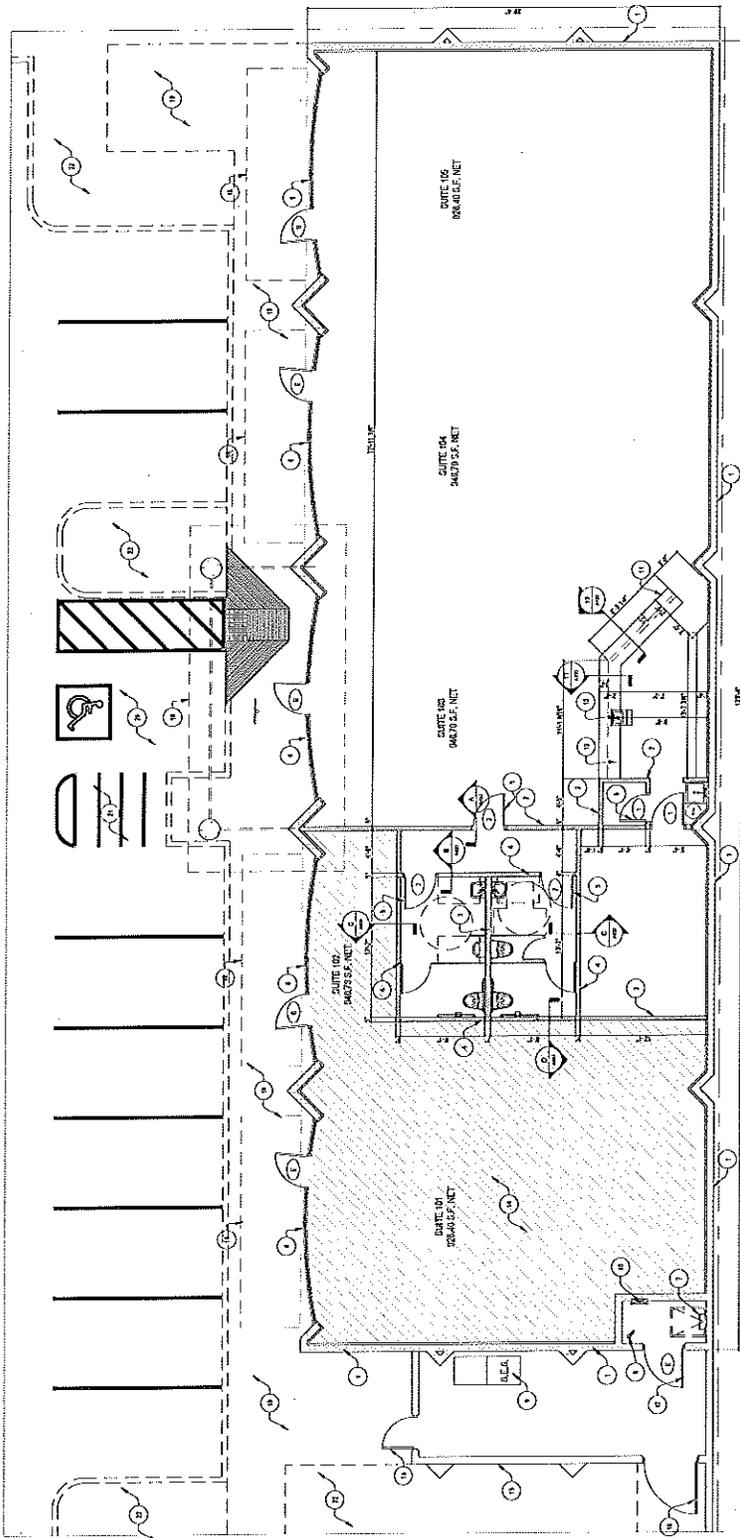
Your partners in
Design



GFC ONE
 ARCHITECTS LLC
 705 N. 144 Street
 Phoenix, Arizona 85004
 Phone: 602.241.7871
 Fax: 602.241.7874
 info@gfcassociates.com

HOOAH BAR
 TENANT IMPROVEMENT
 SUITE 103 - 105
 1501 E. APACHE BLVD.
 TEMPE, ARIZONA
 Project Number: A0003072

Revision: NO	Drawn: JO
Checked: JD	Scale: 1/8" = 1'-0"
DATE: 01/11/2017	
PROJECT: A0003072	
SHEET: 2 OF 2	



1 1ST FLOOR PLAN

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